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EXAMINER
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HOSSAIN, FARZANA E

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/003,187  
Filing Date: October 29, 2001  
Appellant(s): MASSEY, KENT

John J. Marshall  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed May 20, 2008 appealing from the Office action mailed December 10, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

An Appellant's Brief for application 10/003,196.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

There are minor typographical errors on Claim 6 of the Claims Appendix. Claim 6 has the heading: "Currently Amended." There also is an underlined comma for part c of the claim. This comma was part of the finally rejected claim.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**WITHDRAWN REJECTIONS**

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The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

F. The provisional rejection of claim 1 for nonstatutory type double patenting of co-pending application 10/003196 is withdrawn.

#### **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

#### **(8) Evidence Relied Upon**

US 6,041,310	GREEN ET AL	03/2000
US 2002/0013943	HABERMAN ET AL	01/2002
US 5,737,527	SHIELS ET AL	04/1998

**"Abbreviate." Merriam-Webster's Collegiate Dictionary. 10th ed. 1998.**

**"Impute." Merriam-Webster's Collegiate Dictionary. 10th ed. 1998.**

**"Intersperse." Merriam-Webster's Collegiate Dictionary. 10th ed. 1998.**

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Green et al (US 6,041,310 and hereafter referred to as "Green").

Regarding Claim 5, Green discloses a method for presenting digital video work for marketing products or services to potential purchasers, wherein content of the

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interactive digital video work can be customized based upon each viewer's decisions, (Abstract), the method comprising the steps of:

providing a plurality of potentially viewable scenes (Figure 1, 12, Column 5, lines 31-34) to deliver to a viewer in a plurality of modules (Figure 13, 160), each module corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (figure 13, 162) of the product or service (Column 11, line 66 -Column 12, line 12). Green discloses an inventory list 120 shown in figure 12A that allows the customer to select a car to view more information regarding "product" or car.

Green discloses, for attributes (162 -figure 13) which are common to more than one product or service, producing some of the potentially viewable scenes to provide comprehensive information about the attribute and alternative scenes to provide abbreviated information about the attribute (Column 11, lines 8-67, Column 12, lines 1-12). Green discloses a minimum number of cars or "products" are needed to compile inventory list (Figure 9A, 120) and if a car does not exactly match the customers query, but can closely match the customers query, the car will be added to inventory list in order to make a complete list (Figure 9A, 120, Column 11, lines 8-40). Green discloses when a customer selects a car that is an exact match to the customer's query, the customer is provided with selected vehicle screen with comprehensive scenes regarding the car (Figure 13) and this screen may provide the customer with more information regarding the transmission, such as the car has a 4 speed automatic (Figure 13). Green discloses that when a customer later selects a car that only comes close to

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matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car may not include all the same features as a previously viewed car that matched the customer's query (Figure 13, Figure 12A).

Green discloses presenting to the viewer alternative decisions that allow the viewer to select an order in which modules will be presented by disclosing inventory list allows the customer to view a list of cars or "products" with common attributes and facilitates the customer to view more information regarding a car by selecting an individual car (Figure 9A, 120). In response to the selection, the user will view selected vehicle screen 160 or "module" and has the option to return back to inventory list 120 to select another individual vehicle (Figure 13, Figure 12, Figure 9A). Therefore, the customer is presented with alternative decisions that allow the customer to select the order selected vehicle screen 160 or "modules" are shown.

Green discloses delivering some of the potentially viewable scenes to the viewer as branching points at which alternative decisions are presented that will determine a scene sequence to be presented to the viewer or the viewer is presented with alternative decisions after a display and from different queries which will take the user to different scenes based on the decision (Column 5, lines 31-34, Figures 8B, 9, 9A, Figure 1, 12, Figure 13, 150).

Green discloses, enabling the viewer to select one of the alternative decisions or a user may input information or commands by simply using the touch screen and pressing on one of the displayed choices (Column 6, lines 37-40). Green teaches,

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prompting the viewer to make one of the alternative decisions or top of inventory list screen 120, a prompt displayed to the customer to instruct the customer how to select a vehicle to view more information regarding the car or "product" (Figure 12A, Column 11, lines 8-65).

Green teaches in response to the viewer's selected one of the alternative decisions, presenting to the viewer, in each module (Figure 13, 160) that correspond to the selected by the alternative decision that can be presented in a different order, the scenes providing comprehensive information for attributes not previously presented to the viewer in an earlier module and the alternative scenes providing abbreviated information for attributes previously presented to the viewer in an earlier module or when a minimum number of cars or "products" do not exactly match the customers query, the inventory list 120 will include cars or "products" that come close to matching in order to meet the minimum number of cars to be shown requirement (Column 11, lines 8-51). Therefore, when a customer selects a car that exactly matches the query, the customer is provided selected vehicle screen 160 with comprehensive scenes regarding the car and when a customer later selects a car that only comes close to matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car does not include all the same features as the previously viewed car.

Regarding Claim 6, Green discloses a method for presenting digital video work for marketing products or services to potential purchasers wherein content of the

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interactive digital video work can be customized based upon each viewer's decisions (Abstract), the method comprising the steps of: providing a plurality of potentially viewable scenes (Figure 1, 12; Column 5, lines 31-34) to deliver to a viewer in a plurality of modules (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11), each module corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11) of the product or service (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11, Column 11, line 38 -Column 12, line 12).

Green teaches, in at least one module (Figures 7A, 7B, 8A, 8b, 9, 10, 11, Figure 12A), providing basic scenes which provide information about an attribute that are presented to the viewer when the module is viewed, and providing a set of alternative scenes which are only presented to the viewer in response to an interactive request by the viewer for additional information or allowing a user to choose the type of vehicle such as cars, trucks, vans, American Cars and American vans and then choosing models based on that decision (Figures 7A, 7B, 8A, 8B, 9, 10, 11).

Green teaches, presenting to the viewer at branching points that follow a basic scene providing information about an attribute, alternative decisions enabling the viewer to request additional information about the attribute that determine the next scene sequence to be presented to the viewer (Figure 7A, Figure 7B, Figures 8A, 8b, 9, 10, 11, Figure 12A).

Green teaches, enabling the viewer to select one of the alternative decisions (Column 6, lines 37-40).



Green teaches, prompting the viewer to select one of the alternative decisions (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11).

Green teaches presenting to the viewer in response to the viewer's selected alternative decision the set of alternative scenes that correspond to the selected alternative decision or in response to a particular vehicle choice, model selections for that vehicle selection (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11).

Green teaches for attributes which are common to more than one product or service, recalling whether the viewer made an alternative decision regarding the same attribute in an earlier viewed module (Column 9, lines 15-32, Figures 7A, 7B, 8A, 8b, 9, 10, 11).

Green teaches, if the viewer has made an alternative decision requesting additional information about the same attribute in a previously viewed module, not prompting the viewer to make the same decision in a later module by disclosing as the customer adds to the query, the system will not ask the customer again which transmission is preferred (Figures 7A, 7B, 8A, 8B, 9, 10, 11, Figure 12A).

Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haberman et al (US 2002/0013943 and hereafter referred to as "Haberman") in view of Shiels et al (US 5,737,527 and hereafter referred to as "Shiels").

Regarding Claim 1, Haberman discloses a method for the simultaneous creation, assembly and transmission of synchronous multiple personalized message to specific targeted individual or other entities or presenting an interactive digital video work used

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for marketing products or services to potential purchaser viewers that can customize the content presented after branching points to a particular viewer based upon the viewer's preferences (Abstract, Figure 3, paragraphs 0009-0011 Figure 6, slots), the method comprising the steps of:

(a) providing a plurality of potentially viewable scenes to deliver information content about products or services to a viewer (Figure 3). Haberman discloses providing to viewers personalized messages and commercials that are more relevant given their personal situation or products or services (Figure 3, Figure 6, Page 3, paragraph 0040-0041). Personalized messages can be part of traditional broadcast (digital) television, advanced broadcast (digital) television (incl. video on demand) or streamed programs on the Internet (Page 2, paragraph 0022). Haberman teaches creating different options or "sequences" of each slot or "modules", multiple versions of an entire video feed can be combined (Page 3, paragraphs 00040-0041). Haberman teaches determining probable personal preferences of categories of viewers" by disclosing to personalize a commercial or tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's decisions (Figure 3, 64) for each viewer, the viewer-specific path through each template of the commercial (i.e., the selection of the option to play for each slot) will be selected at the latest moment possible (Just-In-Time-Advertising-JITA), based on information (Figure 2, 62) available on that viewer (e.g., from customer databases) (Page 4, paragraph 0048). Haberman teaches producing some of such scenes as alternative scenes having content that is associated to such personal preferences or

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commercial for vacationing in Bermuda which can be customized to showcase a variety of activities to a viewer (Figure 6). Further, STB 58 can make the final selection from the parts by matching the personalization information 62 against the user profile for each of the possible choices for products and services (Page 3, paragraphs, 0040-0041, Page 4, paragraphs 0046-0053). Haberman teaches a commercial that is customized based on the viewers' sex, and hobbies or interest (Figure 6) and a slot or "module" is provided for default activity that comprises three or more activities that can be shown to the viewer depending on the known sex of the viewer and the known interests about the viewer. For example a young woman may be targeted with sequence about tennis and a young family may be targeted with a sequence about scuba. Haberman further discloses information can be obtained about viewers from data mining organizations (Page 2, paragraph 0016). Therefore, information about the viewer, like interests and hobbies, can be interspersed with other scenes within a commercial so a personalized message can be created and targeted towards a specific demographic of viewer.

Haberman is silent on users making decisions at each branching point including delivering some of the scenes to the viewer as the branching points at which alternative decisions are presented to the viewer that will determine the next scene sequence to be presented to the viewer; for each alternative decision at each branching point, having available to present to the viewer a scene sequence corresponding to the alternative decision; enabling the view to select one of the alternative decisions; in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that

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corresponds to the selected decision; tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's selected decisions; producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points; and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence.

Shiels discloses a method of presenting an interactive digital video work that can customize the content presented after branching points to a particular viewer based upon the viewer's preferences (Figure 6), providing a plurality of potentially viewable scenes to deliver information content about pay per view play or services to a viewer (Figure 6, Column 7, lines 2-18); delivering some of the scenes to the viewer as the branching points at which alternative decisions are presented to the viewer that will determine the next scene sequence to be presented to the viewer (Column 7, lines 2-18); for each alternative decision at each branching point, having available to present to the viewer a scene sequence corresponding to the alternative decision (Figure 6); enabling the viewer to select one of the alternative decisions (Column 7, lines 32-41); in response to the viewer's selected one of the alternative decisions, presenting the scene

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sequence that corresponds to the selected decision (Figure 6, B, C, D, E). Shiels discloses tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's selected decisions or saving the settings during an interactive session so that future sessions do not have saved settings as values instead of default values and also capture scenes which allow the user to capture scenes and the user may be provided with the ability to call up scenes and replace the current scene with a flashback (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10). Shiels discloses producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10); and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests for the services, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence (Figure 3, Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Shiels in order to prompt the viewer to make one of the alternative decisions that will determine the

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order of a subsequent module and providing neutral scenes that do not depend from the alternative scenes that were previously chosen. One would have been motivated to make this modification for the benefit of facilitating user interaction with branch-structured commercial to better personalize the commercial for the viewer (Summary) as disclosed by Shiels.

Regarding Claim 3, Haberman discloses a method for presenting an interactive digital video work for marketing products or services to potential purchasers, wherein content of the interactive digital video work can be customized based upon each viewer's decisions (Abstract, Page 1, paragraphs 0009-0011), the method comprising the steps of:

(a) providing a plurality of potentially viewable scenes to deliver to a viewer in a plurality of modules, each module containing potentially viewable scenes about a product or service or creating options or sequences for each slot or module, where multiple versions of an entire video feed can be combined (Figure 3, Figure 6, Page 3, paragraph 0040-0041). Haberman teaches, presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the subsequent module is presented (Figure 6), common or "neutral scenes" (Figure 6, D-5 and D-11). The common or "neutral scenes" will be shown in the commercial and viewed by everyone no matter whether the target audience be a young woman or a young family.

However, Haberman fails to explicitly disclose in at least one of the modules, presenting to the viewer alternative decisions that will determine an order in which at a subsequent module will be presented; enabling the viewer to select one of the alternative decisions; in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed; and prompting the viewer to make one of the alternative decisions that will determine the order of a subsequent module and presenting the neutral scenes interspersed with alternative scenes that correspond to viewer's selected one of the alternative decisions.

In analogous art, Shiels discloses a branched narrative structure starting with a common introductory portion (Figure 6, Column 7, lines 2-46). Shiels discloses in at least one of the modules, presenting to the viewer a set of alternative decisions each alternative decision determining an order in which a subsequent module will be presented or asking the user which path the narrative will take, with the user navigating through the network of possible story lines to reach one of the four possible endings and effectively determining the order in which the modules are viewed (Column 7, lines 5-8) and a menu of possible options may be displayed asking the user to make a selection using a user input device (Column 7, lines 33-40).

Shiels discloses enabling the viewer to select one of the alterative decisions or a list of options will be displayed to the viewer when a decision is need (Column 7, lines 33-40).

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Shiels discloses in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, and providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed or common nodes H, J, and K which may appear in the narrative regardless of which path is chosen at node A (Column 7, lines 2-18). Shiels further teaches providing alternative ending scenes W-Z, which are dependent on the decisions, made by the viewer at the previous nodes or "modules" (Column 7, lines 2-46).

Shiels further discloses prompting the viewer to select one of the alternative decisions that will determine the order of a subsequent module or an interaction period may be indicated to the viewer by displaying a menu of possible options on the screen and allowing to user to select one of the displayed options (Column 7, lines 32-46).

Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the subsequent module is presented or that common nodes are displayed based on one of the alternative decisions made by the viewer (Column 7, lines 2-18).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Shiels in order to prompt the viewer to make on of the alternative decisions that will determine the order of a subsequent module and providing neutral scenes that do not depend from the alternative scenes that were previously chosen. One would have been motivated to



make this modification for the benefit of facilitating user interaction with branch-structured commercial to better personalize the commercial for the viewer (Summary) as disclosed by Shiels.

Regarding Claim 4, Haberman and Shiels disclose all the limitations of Claim 3. Haberman discloses the step of presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the module is presented includes presenting alternate scenes to avoid repeating information already conveyed to the viewer in previous scenes or the system may keep track of which segments were previously shown to any audience, so in a next transmission, different segments not before seen by the audience can be shown (Figure 3, Page 2, paragraph 0040-0042). Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the module is presented (Column 7, lines 2-46).

## **(10) Response to Argument**

### **A. Claim 5**

The appellant argues that issue is whether Green teaches providing only abbreviated information about some attribute of a product or a service, when the decision path of the viewer indicates that she has already seen more comprehensive

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information about the same attribute (Page 6). The appellant argues that the issue is expressed in parts b) and f) of claim 5 (Page 6). The appellant argues that an interactive digital video to sell a product or service would appear stilted and artificial if the viewer is forced to watch a repeat of comprehensive information about a common attribute and that the viewer should not have to watch a repeat of the comprehensive information if she already saw it for other models (Pages 6-7). The appellant argues that Green cannot do this and does not suggest any reason for wanting to do this (Page 7). The appellant argues that Green does not teach potentially viewable scenes to provide information about attributes and further does not show information about the attributes that is varied nor abbreviated (Pages 7-8). The appellant argues that there is no comprehensive information scene with one or more alternative abbreviated information screen in Green and nothing would suggest showing the viewer the comprehensive information scene when information on the attribute is first requested but showing one of the abbreviated scene on subsequent requests (Page 8).

In response to the appellant's arguments, the examiner respectfully disagrees. Green discloses potentially viewable scenes to provide information about attributes (Column 5, lines 30-35). Green discloses part b) by providing plurality of potentially viewable scenes in a plurality of modules (Figure 13, Figure 12A, Figures 7A, 7B, 8A, 8B, 9, 9A) and for attributes that are common, producing viewable scenes (Figure 12A) to provide comprehensive information (Figure 13) and alternative scenes (Figures 7-11A) to provide abbreviated information about the attribute such as for each different type of car there are common attributes which include types of models, transmission,

model year and price range (Figures 7, 8, 9, 10, 11) to produce abbreviated or limited information (Figure 12A). Green discloses part f) in response to the viewer's selected one of the alternative decisions, presenting to the viewer, in each module that correspond to the selected by the alternative decision that can be presented in a different order or choosing a different path based on the different decisions made (Figures 7-11A) resulting in a different module detailing information (Figure 12, Figure 13), the scenes providing comprehensive information for attributes not previously presented to the viewer in an earlier module (Figure 13, 160) and the alternative scenes providing abbreviated information (Figure 12, Figure 12A) for attributes previously presented to the viewer in an earlier module (Figures 7-11A).

The appellant's arguments that Green does not teach not repeating information because the viewer would be forced to watch a repeat of such information is not persuasive. Green clearly discloses attributes vary for each type of car and displaying this information with comprehensive information (Column 5, lines 50-54, Figure 13, 162). The appellant is relying on an example of the appellant's specification of a visitor selecting a website for a automobile dealer and selecting a model with features and then choosing another vehicle (i.e. full size vehicle and then mid size vehicle) which provides alternative scenes and an abbreviated scene sequence which states mid size model uses the same system an full size model (paragraphs 0017-0018). The claim does not have language for an abbreviated scene. The claim requires abbreviated information on the attribute. Merriam-Webster's 10<sup>th</sup> edition Collegiate Dictionary defines "abbreviate" as to make briefer. Therefore, Green discloses abbreviated

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information (Figure 12A) and comprehensive information (Figure 13). Green discloses there are subsequent requests the abbreviated information (Figure 14, 144). The claim language does not state alternative abbreviated information. However, Green also allows the user to return to the main menu, which will allow the user to make alternative decisions to obtain alternate abbreviated information (Figure 14, 110).

### **B. Claim 6**

The appellant argues that Green does not disclose steps b), c), g) or h) (Page 8). The appellant argues that Green does not disclose a module that has basic scenes which provide information about an attribute of a product or service and a set of alternative scenes which are not only presented to the viewer in response to the viewer's interactive request for additional information (Page 8). The appellant argues that closest Green comes to this is the touch screen in Figure 12 which allows a viewer to pull up detail sheet for each vehicle (Page 8). Green does not say what happens to attributes that are common to more than one vehicle much less recalling whether the viewer requested the same additional information on the same attribute in an earlier module and if so not presenting the information scene as one of the choices as a prompt in a later module (Page 8). The appellant argues that Green cannot suggest or teach once the viewer has requested and viewed additional information about an attribute; the additional information choice will not be offered again in another module if the attribute is common to a later viewed product (Page 9). The appellant also argues that the viewer gets a fixed scene in Figure 13 when he selects a vehicle from Figure 12

(Page 9). The appellant argues that Green does not disclose removing this option and can repeatedly view the same car (Page 9). The appellant finally argues that the reasoning that once a person chooses an attribute such as transmission and that the choice is not repeated does not meet b), c), g) and h) (Page 10) because selecting a search limitation such as type of transmission is not requesting additional information (Page 10).

In response to the appellant's arguments, the examiner respectfully disagrees. Green teaches in at least one module (Figures 7A, 7B, 8A, 8b, 9, 10, 11, Figure 12A), providing basic scenes which provide information about an attribute or for each scene such as transmission including automatic and manual drive, that are presented to the viewer when the module is viewed (Figures 7-11A), and providing a set of alternative scenes which are only presented to the viewer in response to an interactive request by the viewer for additional information (Figure 12A, each vehicle), presenting to the viewer at branching points that follow a basic scene providing information about an attribute such as more information which choice (Figures 7-11A), alternative decisions enabling the viewer to request additional information about the attribute such as automatic 2-wheel drive or 4-wheel drive and then that decision determines the next scene sequence to be presented to the viewer (Figure 7A, Figure 7B, Figures 8A, 8b, 9, 10, 11, 11A Figure 12A). Green teaches for attributes which are common to more than one product or service, recalling whether the viewer made an alternative decision regarding the same attribute in an earlier viewed module (Column 9, lines 15-32) such as the decision to pick a type of car, type of transmission screen or price and not prompting the

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viewer to make the same decision in a later module by disclosing as the customer adds to the query, the system will not ask the customer again which transmission is preferred (Figures 7A, 7B, 8A, 8B, 9, 9A, 10, 11, 11A Column 2, lines 54-59). The user selecting a type of transmission for the product or car in Green is requesting information in relation to the attribute for this particular car.

Alternatively, there was a decision for a type of car, providing basic scenes under each car and a decision to go forward with the type of car is requesting more information about the car (Figures 7-11A). The appellant's argument for not seeing the same vehicle information multiple times is irrelevant to the claim language. Green can select to see the same car in Figure 12A but only after selecting to see more detail in Figure 13 and selecting to return to the selection screen of Figure 12A in Figure 14. The interpretation of attributes that are common are provided in the scenes of Figures 7-11A. Green does not request additional information about same attribute in a later module (Figures 7-11A, Column 2, lines 54-56). The claim languages relates strictly to requesting information about attributes and recalling that information and not asking about that choice.

### **C. Claim 1**

The appellant argues that Haberman does not disclose presenting interactive digital video work and therefore does not discloses steps b) through h). The appellant argues that Shiels does disclose interactive branching selection by viewers but does not teach or suggest f), g) or h) (Page 10). The appellant argues that Haberman discloses

that it creates messages that are segmented into multiple slots but this is not interactive (Page 11). The appellant argues that Shiels does not track the viewer's cumulative decisions to impute the viewer's preferences and interests in a product but merely responds to each decision made (Page 12). The appellant argues that Shiels does not produce variation scenes adapted to viewer's preferences and interest (Page 12). The appellant argues that Examiner's arguments about Haberman are wrong because Haberman does not make any decisions and therefore Haberman cannot track viewer's cumulative decisions (Page 12). The appellant argues Shiels does not determine viewer preferences or interests or impute any interest or preference (Page 12).

In response to the arguments, Haberman teaches delivering some of the scenes to the viewer (Page 3, paragraphs 0040-0041) and based on the characteristics of a user a different option is chosen (Page 3, paragraph 0040). Haberman discloses using user personal preferences not simply delivering segments (Page 3, paragraphs 0040-0041). Haberman teaches tracking the viewer's cumulative selected decisions based on the viewer's choices from viewer specific information (Page 6, paragraph 0063, Page 4, paragraph 0048-0049, Page 5, paragraph 0060) and imputing that particular viewer's preferences and interests based on the viewer's decisions or determining probable personal preferences of categories of viewers (Page 6, paragraph 0063, Figure 3, 64), producing some of such scenes as alternative scenes having content that is associated to such personal preferences (Figure 6) and deciding the final selection from the parts by matching the personalization information 62 against the user profile for each of the

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possible choices for the products and services (Page 3, paragraphs, 0040-0041, Page 4, paragraphs 0046-0053).

Furthermore, Shields discloses f) tracking the viewer's cumulative selected decisions as the user can have saved settings (Column 9, lines 7-12). Merriam-Webster's 10<sup>th</sup> edition Collegiate Dictionary defines "impute" as to credit a person or cause. Therefore, Shields discloses imputing that particular viewer's preferences and interests based on the viewer's selected decisions or from saved settings, the preferences and interests can be credited to the user so that the narrative flow is less susceptible to discontinuities (Column 2, lines 9-13) and also capture scenes which allow the user to capture scenes and the user may be provided with the ability to call up scenes and replace the current scene with a flashback (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10). Shields discloses g) producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests for the services, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points which includes decisions made in prior episodes as well as decisions made to capture scenes and to use capture scenes as alternative scenes (Column 2, lines 9-12, Column 9, lines 7-67, Column 10, lines 1-3, Column 12, lines 7-10); and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests, based



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on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence (Figure 3, Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10).

Shiels combined with Haberman discloses preferences and interests, which impute the preferences based on viewer's selected decisions and other limitations of the claim.

Furthermore, in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

#### **D. Claim 3**

The appellant argues that neither Haberman nor Shiels disclose or suggest steps b), d), e) or f) (Page 13). The appellant argues that Shiels does not allow the viewer's decision to change the order in which a module is viewed (Page 13). The appellant argues that the Shiels only allows alternative paths with changing the order of the modules so the fact that modules can be reached by more than one path is not same as providing the modules in a different order such as modules viewed before H cannot be viewed after H (Pages 13-14). The appellant argues that Shiels does not provide neutral and alternative scenes or modifying the neutral scenes showing information

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about a selected automobile by interspersing into sequence alternative scenes about safety features (Page 14). The appellant argues that Examiner is confusing different paths with modules presented in a different order and cannot reverse the order of paths (Page 14).

In response to the argument, the examiner respectfully disagrees. Haberman teaches presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the subsequent module is presented as two slots are common (Figure 6, D-5 and D-11). Shiels discloses a branched narrative structure starting with a common introductory portion (Figure 6, Column 7, lines 2-46). Shiels discloses b) in at least one of the modules, presenting to the viewer a set of alternative decisions each alternative decision determining an order in which a subsequent module will be presented or asking the user which path the narrative will take, with the user navigating through the network of possible story lines to reach one of the four possible endings and effectively determining the order in which the modules are viewed (Column 7, lines 5-8, Figure 6) and a menu of possible options may be displayed asking the user to make a selection using a user input device (Column 7, lines 33-40).

Shiels discloses d) "a different order" can be met by common nodes H, J, and K which may appear in the narrative regardless of which path is chosen at node A (Column 7, lines 2-18). Shiels further teaches providing alternative-ending scenes W-Z, which are dependent on the decisions, made by the viewer at the previous nodes or "modules" as disclosed by Shiels (Column 7, lines 2-46). A different order does not

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need to have alternative scenes flip-flopped so that scene K has to happen before scene H as argued by the appellant. Therefore, the appellant's argument that different paths are not the same as each module in different order is not persuasive because a different path for each module (H, J, K) to get to a different outcome is a different order. Shiels also teaches that users can choose to recall scenes that were captured so that they are provided after future scenes as flashback, which gives them alternative scenes in a different order (Column 9, lines 30-67, Column 10, lines 1-12). Shiels clearly discloses that e) prompting the viewer to select one of the alternative decisions that will determine the order of a subsequent module as different scene sequences are presented based on decisions such as A, B, C to W or to K and then X (Figure 6). Shiels clearly provides neutral scenes and alternative scenes (Figure 6, Column 7, lines 2-46). Haberman teaches neutral scenes and alternative scenes (Figure 6, D-5 and D-11). Merriam Webster's 10<sup>th</sup> edition Collegiate Dictionary defines "intersperse" as to place something in interval in or among. Therefore, Shiels discloses f) presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the subsequent module is presented or that common nodes are displayed based on one of the alternative decisions made by the viewer (Column 7, lines 2-18).

The appellant makes an argument about Shiels does not disclose modifying neutral scenes showing information about selected automobile by interspersing alternative scenes pertaining to customer's apparent interest in safety features imputed

from her prior decisions. The appellant is arguing elements of the appellant's specification into the claim limitations. Therefore, this argument is considered moot.

Furthermore, in *KSR*, the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention. No. 04-1350, slip. op. at 12.

#### **E. Claim 4**

The appellant argues that Haberman and Shiels do not present to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected alternative decisions and are appropriate to relative order in which module is presented by presenting alternate scenes to avoid repeating information about goods or services already conveyed to the viewer in previous scenes (Page 14). The appellant reiterates the argument that Shiels cannot modify the neutral scenes by interspersing alternative scenes pertaining to a customer's apparent interest at all much less select the appropriate alternative scenes so that she is not merely shown a repeat of the same additional information (Page 14).

In response to the arguments, Haberman discloses the step of presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the module is presented includes presenting alternate scenes to avoid repeating information already conveyed to the viewer in previous scenes or the

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system may keep track of which segments were previously shown to any audience, so in a next transmission, different segments not before seen by the audience can be shown (Figure 3, Page 3, paragraphs 0040-0042). Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the module is presented (Column 7, lines 2-46).

See response to arguments for claim 3 in section C.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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